

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND
CHANCERY DIVISION

2008 No:

BETWEEN:

AMALGAMATED TRANSPORT & GENERAL WORKERS UNION

Plaintiff

-and-

GORDON McNEILL

Defendant



AFFIDAVIT

I, JAMES KELLY, the Regional Secretary within the Amalgamated Transport & General Workers Union of Transport House, 102 High Street, Belfast, aged 18 years and upwards make oath and say as follows:-

- (1) I am duly authorized to make this affidavit on behalf of the Plaintiff.
- (2) On the 8th April 2008 an application for an injunction was made on behalf of the Plaintiff before the Judge. The Judge ordered that until further order the defendant, Gordon McNeill, of 25 Summerfield Street, Ballymena, BT43 7DP, along with Chris Bowyer, of 34b Barra Drive, Ballymena, BT42 4AH and Madan Gupta, of 21 Sally Gardens, Newtownabbey, BT36 5HR whether by themselves or by their servants or agents or otherwise howsoever, must not remain on the roof of, or otherwise in or at Transport House, 102 High Street, Belfast or otherwise interfere with the plaintiff's privacy or peaceful enjoyment of the said land and property and further must remove themselves, immediately, from the said land and property, taking with them all tents, sleeping bags, ladders and other items brought with them onto the plaintiff's premises. A copy of the said Order for an Injunction, along with my previous un-sworn affidavit and my sworn affidavit and the exhibits attached thereto, are attached hereto and marked "JK1" at the time of swearing hereof.
- (3) The Order for an Injunction further contained a penal notice in the following terms, namely that if the defendant, Chris Bowyer or Madan Gupta disobeyed the order that they may be held to be in contempt of court

and that they may be imprisoned, fined or have their assets seized and that any other person who knew of the order and did anything which helped or permitted the Defendant, Chris Bowyer or Madan Gupta, or any of them, to breach the terms of the order may also be held to be in contempt of court and may be imprisoned, fined or have their assets seized.

- (4) The plaintiff, through its counsel, gave undertakings to the court when it applied for the injunction, including that it would, as soon as practicable, issue and serve proceedings on the Defendant, Chris Bowyer and Madan Gupta in the form of the draft produced to the court together with a copy of the Order for an Injunction.
- (5) The Order for the Injunction along with the penal notice therein was not served on the Defendant until 27th May 2008, when it was served by David Fullerton, process server assisted by two PSNI officers.
- (6) The Order for the Injunction was not served upon the defendant herein, Chris Bowyer or Madan Gupta prior to 27th May 2008 for the following reasons:
 - (a) The plaintiff entered into negotiations with each of them in respect of outstanding legal costs incurred by them in respect of the funding of their claims in the Office of the Industrial Tribunals against ICTS (UK) Ltd. immediately after it had obtained the order for an injunction.
 - (b) The defendant and Madan Gupta were taken to hospital on 9th April 2008, due to their hunger strike at the plaintiff's premises, which was the day after the Plaintiff had obtained the order for an injunction.
 - (c) Mr. Bowyer removed himself from the plaintiff's premises on or about 9th April 2008.
 - (d) Shortly thereafter the plaintiff entered into lengthy negotiations in relation to the defendant's, Chris Bowyer's and Madan Gupta's legal costs through EAD Solicitors LLP, Prospect House, Columbus Quay, Liverpool, L3 4DB.
- (7) The negotiations were not concluded and on or about 15th May 2008 the defendant and Chris Bowyer resumed their protest by climbing onto the roof of the porch at the front of the plaintiff's premises at Transport House. The defendant and Chris Bowyer erected a tent and various banners on Transport House. On or about 20th May 2008 the defendant was hospitalized as he had continued his hunger strike on the roof of the plaintiff's premises. In and around 20th May 2008 negotiations were still ongoing and as a result of which Chris Bowyer removed himself from the plaintiff's premises.
- (8) On or about Tuesday 27th May 2008 at or about 2 pm the defendant herein resumed his protest at the Plaintiff's premises by climbing again on to the roof of the porch and took with him a large banner and a tent.

- (9) As a result of the defendant again re-commencing his trespass to and protest at the plaintiff's premises the injunction obtained on 8th April 2008 along with the penal notice therein was served on the defendant at the plaintiff's premises with the assistance of the Police Service of Northern Ireland by David Fullerton, process server at or about 4.30 pm on 27th May 2008. I am informed and believe that the defendant informed the PSNI that he would be contacting his legal team on 27th May 2008 and that he had no intention of coming down from the roof over the porch entrance to Transport House.
- (10) At approximately 5.30 pm on 27th May 2008 Madan Gupta and another individual attended at Transport House in support of the defendant. These individuals were abusive to members of the plaintiff's staff and used behaviour of a threatening nature towards a senior officer in the Plaintiff union. As a result of which all remaining members of staff were asked to leave Transport House as this incident arose concerns for their safety.
- (11) The PSNI returned to the premises at or about 7.30 pm on 27th May 2008 and I am informed that the defendant informed the officers of the PSNI that he would be remaining on the roof of the plaintiff's building and had no intention of coming down of the roof.
- (12) As a result of the Defendants actions in May Committal proceedings were prepared and I swore an affidavit in support of having the Defendant committed, a copy of which is attached hereto and marked "JK2" at the time of swearing hereof.
- (13) The Committal proceedings were not pursued by the Plaintiff in May as the Defendant was hospitalized on or about 28th May 2008 having been removed from the roof of the Plaintiff's premises by PSNI officers.
- (14) On or about Thursday 28th August 2008 at or about 3pm the Defendant resumed his protest at the Plaintiff's premises by climbing again onto the roof of the porch along with a banner.
- (15) The Defendant's actions on 28th August 2008 are in breach of the injunction dated 8th April 2008.
- (16) The Defendant has issued two press release dated 27th and 28th August 2008, a copy of which is attached hereto and marked "JK3" at the time of swearing hereof, indicating that he intends to resume his protest.
- (17) In the circumstances I seek the relief sought on the face of the summons.

James Kelly

SWORN AT *51 Adelaide Street*
IN THE COUNTY OF *The City of Belfast* - THIS *27*th DAY OF *August*
2008 BEFORE ME A SOLICITOR EMPOWERED TO
ADMINISTER OATHS FOR THE SUPREME COURT OF
JUDICATURE IN NORTHERN IRELAND

This Affidavit is filed on behalf of the Plaintiff by Donnelly & Kinder,
Solicitors of 22 Adelaide Street, Belfast, BT2 8GD.

Paul Lee Allen
Solicitor
Belfast